

**PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING/GENERAL MEETING
March 2, 2004**

PLACE: Room 206
Town Hall

TIME: 8:00 P.M.

PLANNING AND ZONING COMMISSION MEMBERS ATTENDING:
Damanti, Kenny, Forman, Spain and Conze

STAFF ATTENDING: Ginsberg, Keating

Chairman Damanti read the first agenda item:

Continuation of Public Hearing regarding Coastal Site Plan Review #186-A, Flood Damage Prevention Application #198-A, Denis & Jennifer Manelski, 11 Pratt Island. Proposing to raze the existing residence, garage and greenhouse, and construct a new residence on the existing foundation with an addition, a garage, and a swimming pool, and perform related site development activities within regulated areas. The subject property is located on the south side of Pratt Island approximately 1,150 feet south of the intersection of Nearwater Lane and Baywater Drive, and is shown on Tax Assessor's Map #55, as Lots #121 and #122 in the R-1 Zone. *PUBLIC HEARING OPENED JANUARY 27, 2004.*

Attorney Robert Maslan addressed three questions regarding the architectural designs of the building that had been raised at the previous Public Hearing. He said that the average finished grade would be 9.6 feet above sea level and the first floor would be 14.1 feet above sea level. With respect to the second issue, he said that the building height would be 30 feet as measured by today's regulations, not the 1953 regulations that were in effect when this property was involved in a subdivision. The third issue was the details of the foundation. Attorney Maslan said that the foundation has been designed to withstand the flood forces and certification to that effect would be submitted by the architect and engineer. He submitted revised drawings and plans to reflect these details.

Commission member Spain said that the subdivision regulations and the approval of the subdivision does not address the height of the building. Attorney Maslan said that Section 8-26(a) of the statutes indicate that changes to the Subdivision Regulations and changes to the Zoning Regulations made subsequent to the approved subdivision do not affect the lot. He said that the 1953 Zoning Regulations refer to a three story building but it does not have a maximum height measured in feet. He said that they are not proposing a full three stories of building and that they would be complying with today's regulations regarding building height. Commission member Kenny asked about the dimensions of the proposed cupola. Attorney Maslan said that they are not overly large, approximately 6 feet wide and approximately 4 feet high. It was discussed that the cupolas were not specifically exempted from the height regulations of 1953 but, today it is listed as an exemption subject to certain limitations. Attorney Maslan said that the cupola is only as large as is necessary and covers less than 15% of the roof area. Mr. Kenny said it makes it look like a three story building which is not permitted by the regulations. Attorney Maslan said that it would only be three stories according to 1953 Regulations if there were three layers with floor space. The cupola will not have any floor space.

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Attorney Wilder Gleason represented an adjacent property owner and said the drainage and flooding are big issues that are of great concern. He distributed a hand-out to the Commission members and noted that a different client at 9 Pratt Island had proposed a 6½ foot wide cupola and the Commission modified the application and required it to be no more than 4 feet wide and 4 feet high.

Attorney Gleason said that they will be appealing the decision of the Zoning Enforcement Officer with respect to the ruling made concerning Section 8-26(a) of the Connecticut General Statutes and how that Section should or should not apply to the subject property.

Attorney Gleason said that no heating, ventilation or air conditioning equipment is shown on the plans and no pool equipment is shown on the plans. He said that the Environmental Report mentions these items but, they are not shown on the submitted plans and drawings. He said that it is crucial that these items be shown because they will need to be elevated above flood level and they will need to be screened from the adjacent neighbors. He said that the swimming pool fence, which is required by the Building Code, is not shown and it would be within the 100 foot Coastal Area Management Critical Area. He said that the seawall on the property does not appear to be sufficient to comply with the Building Code requirement for a 4 foot high unclimbable obstruction as required by the Building Code. He said that the location and details of the proposed fence are important and are lacking.

Attorney Gleason said that the foundation plan is not specific about what will be saved, what will be replaced and what will be renewed. He said that a crawl space is shown but, there is currently a basement in the house at this time. He said that there are no details about the use of the crawl space, particularly whether there will be any utilities or oil tanks in the crawl space.

Attorney Gleason said that no new grading is shown on the plan, particularly around the garage. He said the garage floor elevation is not specified and there do not appear to be enough steps to get from the garage floor up to the house level. Again, he pointed to the lack of details on the plans. Mr. Spain said that there are stairs shown on the exterior elevation drawings.

Attorney Gleason said that the size of the eaves are not specified. He said that the eaves need to be specified to make sure that they comply with the current Regulations, or if the 1953 Regulations are applicable, that the plans would need to comply with those Regulations. Unfortunately, there are no details or specifics shown about the proposed eaves. Attorney Gleason said that storm drainage is alleged to be handled by installing a series of galleries around the swimming pool but, if the ground water is high, the galleries will not receive or dissipate any storm water. Then it might be possible for the additional storm water from impervious surfaces to impact neighboring properties. He noted that the engineer for the project said that in a flood situation, the new plan would not impact the neighbors, but he said that the engineer did not address a rainstorm situation that is not quite as severe as a 100 year flood. Attorney Gleason said that there is no construction sequence provided with the application and that contractor parking will be a very serious safety concern because of the narrow right-of-way leading out to the houses on the island and the fact that there is very little area to park on the site.

Attorney Gleason said that the proposed house is much larger than what is there today. On a high, high tide situation, the Connecticut Department of Environmental Protection indicates that waters

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would reach approximately 9.8 feet above sea level. He said that this high, high tide situation occurs several times each year and that it will inundate much of the site and might inundate other properties if the existing conditions are changed. He said that the channel located between the Manelski and the Rhodes property to the east is the area that floods most frequently because it is low compared to the house sites. Attorney Gleason said that the large, proposed house on the Manelski property will possibly divert flood waters and could accelerate erosion and make flooding on other properties worse. He said that the effects of the structure could be felt by the fact that flood waters would be deflected or restricted. He said that the passage of flooding waters might be impeded by the proposed large structure and that part of the Flood Damage Prevention Regulations require not just that the house be elevated but, that it be designed so that it will not deflect or restrict or divert flood waters onto adjacent properties. He said that the Commission had required a former client, the Loves, on Shipway Road to provide a much more detailed analysis of the impacts of their structure on the flood conditions and how other properties might be affected. He said that a detailed analysis of that nature has not been provided by the Manelskis.

Commission member Spain said that at the last Public Hearing a neighbor had raised this issue and the engineer for the Manelskis, John Roberge, had said that the flood conditions would not be made worse by the proposed development. Attorney Gleason said that Mr. Roberge was talking about rainwater at that time, not about tidal flooding.

Attorney Gleason requested a continuation of the Public Hearing so that he could have a professional engineer prepare a detailed analysis of the flooding condition. He said that if the condition is inclined to approve the application, they should include a number of conditions and stipulations and modifications. He submitted a sheet with a number of suggested stipulations.

George Nash of 4 Nash Island said that he was concerned about the scale of the proposed house. He said that the Commission should not allow this area to be overly developed the way Belle Island has been developed. He said that Belle Island is a very congested situation and he does not want that to happen on Nash Island or Pratt Island.

Attorney Maslan said that his client wishes to retain the cupola in its current size and dimensions. He said that the proposed pool fence would be located immediately around the perimeter of the terrace area around the pool. It would be a simple wrought iron fence 4 feet high but, if the Commission has a preference of a different type of fence, they will abide by the Commission's decision. He said that the existing foundation of the house will be retained, and the architect and structural engineer will need to test and verify that the foundation can be reused. If any portions are not structurally sound enough to be reused, they will be replaced. New foundations will be constructed as indicated on the plans. He said that the structural stability of the building is dealt with by the Building Official, not by the Planning & Zoning Commission. The Commission is concerned about the elevation of the house and the fact that the engineer or architect certifies that the actual construction has been performed to withstand flood forces.

Attorney Maslan said that silt fences will be installed around the perimeter of the site and other limitations of disturbance will be used to provide sufficient protection of the nearby environmental resources. He said that there will be no substantial changes to the grade. The only changes to grade will be very minor and will be within 25 feet of the house. Attorney Maslan said that the eaves are no where near the minimum 25 foot setback for most portions of the building and the Commission

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can certainly condition the approval on verification of the eave dimensions prior to construction and again, once construction been completed. With respect to the ground water and the use of the gallery system to absorb runoff storm water, Mr. Maslan referred to the engineering report by John Roberge.

Attorney Maslan said that the site improvement report by John Roberge does show stockpile area on the map and Attorney Maslan said that earth material excavated from the foundation will be used to fill in the existing basement. Excess material not needed for that work will be removed from the site. He also said that, during the construction process, the contractors and laborers will need to park on the site so that they will not obstruct the narrow right-of-way leading to the other houses. He said that they can install an anti-tracking pad across the front of the site to avoid mud being tracked out into the common driveway.

Attorney Maslan said that, if Zoning Enforcement Officer Keating's decision regarding Section 8-26(a) of the Connecticut General Statutes is overturned, then the Zoning Permit would not be valid. He said that it would not be legal for the Planning & Zoning Commission to make a condition that is beyond the control of the applicant. Therefore, it would not be appropriate for the Commission to make a condition indicating that the Commission's approval would become invalid if the Zoning Enforcement Officer's decision is overturned.

Attorney Maslan said that Professional Engineer, John Roberge, has done a detailed study of the flood potential conditions and that the Commission needs to remember to apply the zoning standards for the AAA Zone of 1953 regarding the height, floors and cupola. He said that they will gladly provide engineering certification regarding the foundation and will provide As-Built Survey maps and drawings once the building has been constructed. That is a typical condition of Planning & Zoning Commission approvals for sites such as this.

Denis Manelski said that the HVAC equipment would be placed on the west side or back side of the garage to comply with the setback requirements. He said that it would be elevated above the expected flood level and would be fenced and screened so that it would not be visible. The swimming pool equipment would also be located in this area, even though it is remote from the swimming pool. He expected that a 4½'x7' pad would be large enough to contain all HVAC and pool equipment. In response to a question, he said that they are likely to have a pool heater and the gas or propane tank location has not yet been figured out but, it would comply with the regulations with respect to setback location and flood damage prevention.

Commission member Kenny said that the subject property does not appear to be one of the lots created by the 1953 subdivision. Attorney Maslan said that Map No. 2290 was filed in the Land Records after being approved by the Planning & Zoning Commission and Zoning Board of Appeals. He said that the Manelski property is actually formed by adding part of the subdivision property with an existing building lot that was non-conforming.

Attorney Gleason said that he is shocked that the HVAC equipment is not shown on the plan and is just described verbally by the applicant. He said that it would need to be raised about four feet above the ground in order to comply with the Flood Damage Prevention Regulations. He said that there is no plan for screening or fencing submitted and, therefore the Commission is not able to make any judgment regarding that matter. He said that Attorney Maslan's reference to the

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Carpenter case (concerning conditions beyond the applicant's control) was misleading because Carpenter was about an unrelated issue. In this case, the applicability or non-applicability of Section 8-26(a) is a key foundation upon which the applicant's proposal is based. He said that if the current regulations apply, the proposed development does not comply and therefore cannot be approved.

There being no further comments from the public, the following motion was made: that the Commission close the Public Hearing regarding this matter. The motion was made by Mr. Kenny, seconded by Mr. Conze and unanimously approved.

Chairman Damanti read the following agenda item:

Continuation of Public Hearing regarding Special Permit Application #221-D, Cellco Partnership d/b/a Verizon Wireless, 4 Tower Drive. Proposing to install wireless telecommunications antennas (twelve panel antennas) on top of the concrete water tank within a new "cap" on the existing concrete shell, and to install an equipment shelter within the existing tank housing. The subject property is located on the south side of Tower Drive approximately 250 feet east of its intersection with Mansfield Avenue, and is shown on Tax Assessor's Map #1 as Lot #136, R-2 Zone. *PUBLIC HEARING OPENED FEBRUARY 24, 2004.*

Attorney Ken Baldwin introduced Carlo Sentori, engineer with Verizon and Mark Fois of the Aquarion water company. Mr. Baldwin said that the site has been cleaned up since the previous Public Hearing and that the porta-john has been removed. He submitted photographs of the site as it has been cleaned up.

Attorney Baldwin also submitted a packet of information to the Planning & Zoning Commission and said that the structural integrity of the concrete tower has been verified. He referred to two detailed sheets regarding the structural analysis. Behind Tab A of the packet of information, Attorney Baldwin referred to the maps that show the coverage to be accomplished if the antenna is placed at 108 feet above ground level versus the coverage to be accomplished if it was only at 88 feet above ground level. He said that there would be substantial reductions in the capacity and hand off ability of the system if the antennas were located at 88 feet above ground level. He said that 108 feet level is needed to provide more flexibility and more efficient use of the system. He said that the antennas will also be somewhat adjustable in that they could be tilted to meet site specific conditions.

Attorney Baldwin said that behind Tab 2 there is information about the cumulative RF (radio frequency) emissions. He said that all of the antenna emissions at full power would only create 30.23% of the amount of emissions allowed by the Federal Communications Commission. He said that in practical conditions the amount of radio frequency emissions would be substantially less than the worst case scenario. He reiterated that the Federal Communications Commission has jurisdiction over radio frequency emissions but said that, as per the Commission's regulations, they will provide yearly verification to the town that the emissions are in accordance with what has been represented. He submitted general information about radio frequency emissions and said that the local commission cannot disqualify or deny a qualified service provider because of competition at the site. He referred to photographs of other Verizon installations, particularly in a silo that has been masked to make it look like other silos.

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Mr. Baldwin said that they are not proposing the construction of a new tower because it is the preference of the Connecticut Siting Council and of the Darien Zoning Regulations to use existing tall structures wherever possible. He said that as part of their antenna installation program, they would relocate the police antenna to address neighbor concerns. They will work with the police department to try to provide an equipment storage cabinet in the base of the tower.

Attorney Baldwin said that Sections 950 and 953.1 of the Darien Zoning Regulations encourage the co-location of antenna facilities at a single site rather than having a number of separate towers. He said that the July 16, 2002 past approval by the Planning & Zoning Commission is still appropriate and asked the Commission to re-approve the project just as it had been approved two years ago.

Director of Planning Jeremy Ginsberg said that a number of neighbors had submitted letters to the Commission. He provided copies to the Commission of letters dated 2/28/04 from the Sider family, 3/2/04 from the Kahn family, 3/2/04 from the Gordon family, 3/2/04 from the Hornick family, 3/2/04 from the McCabe family and 3/2/04 from the Triano family.

Attorney Chris Krediet, of the firm of Rucci Burnham Carta & Edelberg, said that he represents the Hornicks who reside at 466 Mansfield Avenue. They are just outside the 100 foot notification area, but they are very concerned about the proposed impacts of the antenna facilities. He asked for an extension of time to have their expert provide to the Commission detailed information about the impacts of the antenna facilities on property values. He said that the Commission needs to make a distinction between the health and safety of the radio frequency emissions versus the stigma attached to the potential dangers and how that stigma negatively affects property values. He said that the property values are impacted by the perception of radio frequency emissions being a potentially dangerous problem.

Commission members said that if a report is to be submitted, it would need to be submitted well in advance of the next Public Hearing so that the applicant would have an opportunity to review it prior to the meeting.

Ann Sullivan of 29 Tower Lane said that there are health issues associated with this new technology and only time will be able to tell the impacts on children. She said that 50% of the potential buyers would not even look at buying a house due to the Tower and the antennas within the Tower. She said that the antenna installation has caused constant truck traffic and the workers at the site, which make it impossible for her children to walk to the bus stop on Mansfield Avenue by themselves. She said she has made phone calls to the construction company and the water company on many occasions and those phone calls have not been returned.

Mr. Hornick of 466 Mansfield Avenue said that he has three small children and he echoed Mrs. Sullivan's concerns. He said that in the summer the foliage blocks the view of the Tower, but for half of the year, the Tower is in full view and is a detriment to the neighborhood.

Pat LaVecchia of 444 Mansfield Avenue said that he purchased his property in December of 2000. He said that he knew they were buying next to a water tower but did not expect to be buying next to a commercial antenna facility. He asked what the limit was on the number of antennas that could be placed at the site and how high the Tower would be allowed to be raised. He asked what the

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standards were. He said that he has looked inside the silo or tower and there seems to be lots of space available for antennas but it is at a lower elevation than they might prefer. He said that it would be better to install the antennas at a lower elevation and build higher towers elsewhere. He reminded the Commission that this is a residential area with many houses in close proximity to the Tower.

Walter Kahn said that he is the contract purchaser of the new house being built on the corner of Tower Drive and Mansfield Avenue. He said that the Commission should not preclude the possibility of having other towers at other locations rather than intensifying the use of this Tower.

Commission members noted that a request has been submitted for a continuation of the Public Hearing so that additional detailed information about property values could be submitted. The following motion was made: that the Commission continue this Public Hearing on March 23, 2004. The motion was made by Mr. Kenny, seconded by Mrs. Forman. There was some discussion about whether or not the information about property values was relevant to the installation of antennas within the Tower structure. The vote on the motion to continue was as follows: In favor was Mr. Kenny, Mrs. Forman, Mr. Conze and Mr. Damanti, opposed was Mr. Spain. The motion to continue the Public Hearing on March 23rd was approved by a vote of 4 to 1. Mr. Damanti mentioned to Mr. Krediet that he would need to submit the detailed property value report by March 18th so that it could be distributed to the Commission members and the applicant in preparation for the meeting on March 23rd.

The following motion was made: that the Commission close the Public Hearing session and go into a General Meeting. The motion was made by Mrs. Forman, seconded by Mr. Kenny and unanimously approved. The General Meeting was convened at 10:10 p.m.

Chairman Damanti read the following agenda item:

Preliminary Conservation Subdivision Application #605, Graham & Bill, LLC, 108 West Avenue.

Discussion per Section 843 of the Darien Zoning Regulations.

Mr. Ginsberg indicated that the applicant has asked that this matter be postponed to a future meeting.

Chairman Damanti read the following agenda item:

Coastal Site Plan Review #163-C, Flood Damage Prevention Application #170-C, T. Mark & Margaret Maybell, 23 Tokeneke Trail. Proposing construction of a new terrace on the east edge of the site to serve as a landing for a new floating dock; construction of a new gangway and float; and performance of related site development activities within regulated areas.

The following motion was made: that the Commission waive the process of reading the entire draft Resolution aloud because each member has had an opportunity to review the draft prior to the meeting. The motion was made by Mrs. Forman, seconded by Mr. Spain and unanimously approved. After a brief discussion, the following motion was made: that the Commission adopt the following Resolution to approve the project with conditions and stipulations:

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ADOPTED RESOLUTION
March 2, 2004**

Application Number: Coastal Site Plan Review #163-C
Flood Damage Prevention Application #170-C

Tax Assessor's Map #69 Lot #38
Street Address: 23 Tokeneke Trail

Name and Address of Property Owner: T. Mark & Margaret M. Maybell
And Applicant: 9 Cross Road
Darien, CT 06820

Name and Address of Applicant & John Roberge, PE, LLC
Applicant's Representative: Foot of Broad Street, Suite 105
Stratford, CT 06890

Activity Being Applied For: Proposing construction of a new terrace on the east edge of the site to serve as a landing for a new floating dock; construction of a new gangway and float; and performance of related site development activities within regulated areas.

Property Location: The subject property is located on the south side of Tokeneke Trail approximately 1500 feet southwest of its intersection with Runkenhage Road.

Zone: R-1

Date of Public Hearing: February 24, 2004

Time and Place: 8:00 P.M. Auditorium Town Hall

Publication of Hearing Notices
Dates: February 12 & 19, 2004 Newspaper: Darien News-Review

Date of Action: March 2, 2004 Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action: Newspaper: Darien News-Review
March 11, 2004

The Commission has conducted its review and findings on the bases that:

- the proposed use and activities must comply with all provisions of Sections 400, 810, and 820 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted development plans, and the statements of the applicant whose

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testimony is contained in the record of the public hearing, all of which material is incorporated by reference.

- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds:

1. The application consists of two basic parts: 1) construction of a new terrace on the east edge of the site to serve as a landing for a new floating dock; and 2) construction of a new gangway and float;
2. As part of Coastal Site Plan Review #163-B and Flood Damage Prevention Application #170-B for this property, the Planning and Zoning Commission specifically found, "...There is a current pending application before DEP for a dock on the premises. It is likely that such a dock, if approved by DEP, will require review and action by the Planning and Zoning Commission sometime in the future." This application is said request. Approval for the dock project was granted by the State of Connecticut DEP on December 12, 2003.
3. The site plan has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
4. The proposal conforms to the standards for approval as specified in Section 1005 (a) through (g) of the Darien Zoning Regulations.
5. In accordance with the submitted information, the proposed activities will have no adverse impacts on flooding on adjacent properties. The proposed house location is not within the Flood Hazard Area.
6. The Commission finds that the proposed additions and alterations to the existing residence, if properly implemented, are not contrary to the goals, objectives and policies of the Coastal Area Management Program.
7. The Commission has considered all evidence offered at the Public Hearing regarding the character and extent of the proposed activities, the land involved, the possible effects of the activities on the subject property and on the surrounding areas, and the suitability of such actions to the area for which it is proposed.

NOW THEREFORE BE IT RESOLVED that Coastal Site Plan Review #163-C and Flood Damage Prevention Application #170-C are hereby modified and granted subject to the foregoing and following stipulations, modifications and understandings:

- A. Work shall be in accordance with the plans entitled:
 - Proposed Partial Site Plan, scale 1"=20', Proposed Residential Landing, Ramp & Floating Dock dated May 27, 2003 Rev. 3 8-25-03, Sheet 3 of 4.

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- Proposed Residential Landing, Ramp & Floating Dock, scale 1/8"=1'-0", dated May 27, 2003 Rev. 2 5-27-03, Sheet 4 of 4.
- B. During construction, the applicant shall utilize the sediment and erosion controls illustrated on the plans and any additional measures as may be necessary due to site conditions. These sediment and erosion controls shall be installed and maintained to minimize any adverse impacts during the construction and until the area has been revegetated or restabilized. The Planning and Zoning Department shall be notified prior to commencement of work and after the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient and are as per the approved plans. All erosion control measures must be maintained until the disturbed areas are stabilized.
- C. The granting of this Permit does not relieve the applicant of responsibility of complying with all applicable rules, regulations, and codes of other Town, State, or other regulating agencies.
- D. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke this permit as it deems appropriate.
- E. This permit shall be subject to the provisions of Sections 815 and 829f of the Darien Zoning Regulations, including but not limited to, submission of certification that the work has been completed in conformance with the permit, and implementation of the approved plan within one year of this action (March 1, 2005). This may be extended as per Sections 815 and 829f.

All provisions and details of the plan shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final documents by the Chairman.

The motion was made by Mr. Conze, seconded by Mrs. Forman and unanimously approved.

Chairman Damanti read the following agenda item:

Land Filling & Regrading Application #115, Graham Albutt, 11 Tulip Tree Lane. Proposing to redesign existing driveway and parking area; install an in-ground pool; install associated landscaping/terracing; and perform related site development activities.

The following motion was made: that the Commission waive the process of reading the entire draft Resolution aloud because each member has had an opportunity to review the draft prior to the meeting. The motion was made by Mrs. Forman, seconded by Mr. Spain and unanimously approved. After a brief discussion, the following motion was made: that the Commission adopt the following Resolution and approve the project subject to conditions and stipulations:

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**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
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Application Number: Land Filling and Regrading Application #115

Tax Assessor's Map #33 Lot #45-4

Name and Address of Property Owner: Graham Albutt
11 Tulip Tree Lane
Darien, CT 06820

Name and Address of Applicant &
Applicant's Representative: Nick Nelson
Glen Gate Co.
644 Danbury Road
Wilton, CT 06897

Activity Being Applied For: Proposing to redesign existing driveway and parking area; install an in-ground pool; install associated landscaping/terracing; and perform related site development activities.

Property Location: The subject property is located on the west side of Tulip Tree Lane approximately 800 feet southwest of its intersection with Deerfield Road.

Zone: R-1 Zone

Date of Public Hearing: February 24, 2004

Time and Place: 8:00 P.M. Auditorium Town Hall

Publication of Hearing Notices
Dates: February 12 & 19, 2004
Newspaper: Darien News-Review

Date of Action: March 2, 2004 Action: APPROVED WITH CONDITIONS

Scheduled Date of Publication of Action: Newspaper: Darien News-Review
March 11, 2004

The Commission has conducted its review and findings on the bases that:

- the proposed activities must comply with all provisions of Sections 400, 850 and 1000 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed activities are described in detail in the application, the submitted plans, and the statements of the applicant whose testimony is

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contained in the record of the public hearing, all of which material is incorporated by reference.

- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds:

1. The proposal is to redesign the existing driveway and parking area; install an in-ground pool; install associated landscaping/terracing; and perform related site development activities. The subject property is currently served by a septic system.
2. EPC Approval was granted for this project on January 7, 2004 (EPC #107-2003). The Zoning Board of Appeals granted approval for the swimming pool as part of Calendar No. 98-2003 approved on December 17, 2003. Each of those approvals is hereby incorporated by reference.
3. The site plan has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
4. The proposal conforms to the standards for approval as specified in Section 1005 (a) through (g) of the Darien Zoning Regulations.

NOW THEREFORE BE IT RESOLVED that Land Filling Application #115 is hereby approved subject to the foregoing and following stipulations, modifications and understandings:

- A. The filling and regrading shall be in accordance with the plans submitted to the Commission entitled:
 - Zoning Location Survey & Topographic Survey of #11 Tulip Tree Lane prepared for Graham J. Albutt Nicola H. Albutt, by William W. Seymour & Associates, last revised December 15, 2003.
 - The Albutt Residence by Glen Gate, scale 1/8"=1'-0", Drawing No. PL-1, last revised 1/8/04.
 - The Albutt Residence, by Glen Gate, scale 1/8"=1'-0", Drawing No. PS-1, dated 1-8-04.
 - The Albutt Residence, by Glen Gate, scale 1/8"=1'-0", Drawing No. PS-2, dated 1-8-04.
- B. Due to the minor nature of the project, the provision of a Performance Bond is hereby waived.
- C. At the public hearing, the applicant's representative noted that although the subject property is currently served by an on-site septic system, in the near future, the owner may wish to tie into the existing public sewer on Tulip Tree Lane. If so, a permit will be needed from Darien Sewer Services, and the Darien Health Department will need to witness abandonment of the septic system.
- D. During the filling and regrading project, the applicant shall utilize sediment and erosion controls to properly manage storm water runoff and to minimize any adverse impacts during the construction and until the area has been revegetated or restabilized. The Planning and Zoning

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Department shall be notified prior to commencement of work and after the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient and are as per the approved plans. All erosion control measures must be maintained until the disturbed areas are stabilized.

- E. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke the permit as it deems appropriate.
- F. The granting of this approval does not relieve the applicant of the responsibility of complying with all other applicable rules, regulations and codes of the Town, State, or other regulating agency.
- G. This permit shall be subject to the provisions of Section 858 of the Darien Zoning Regulations, including but not limited to, implementation and completion of the approved plan within one (1) year of this action (March 1, 2005). This may be extended as per Section 858.

All provisions and details of the plan shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final documents by the Chairman. A Special Permit form shall be filed in the Darien Land Records within 60 days of this action, or this approval shall become null and void.

The motion was made by Mr. Spain, seconded by Mrs. Forman and unanimously approved.

There being no further business, the meeting was adjourned at 10:30 p.m.

Respectfully submitted,

David J. Keating
Assistant Director of Planning